

IN THE UNITED STATES DISTRICT FOR
THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

NC -WC LP
Plaintiff

vs.

Case No. 3:06 cv 440 WKW

DAVID STIVARIUS *et al.*
Defendants

MOTION FOR TO CONTINUE 26(f) REPORT

Comes Now, Gary S. Olshan, attorney for the Plaintiff and motions this Court to continue generally the filing of the Rule 26(f) report. I have contacted all of the defendants and each has no objection to conducting the foreclosure of the subject property. The United States Department of Treasury-Internal Revenue Service (hereinafter referred to as "IRS") has filed its consent and the defendants, Melissa, Lee and Alan Fleming have been served (*Melissa Lee's acceptance attached hereto). I have spoken with each and represent that each does not object to the foreclosure by Plaintiff of the subject mortgage. David Stivarius with whom I have spoken to understood that the complaint was action for judicial foreclosure and did not object to the action. *David Stivarius was served on October 13, 2006, see attached AlaCourt printout. *In error Melissa Lee and David Stivarius were served with the summons and complaint through the State Court but not prejudiced as the service complies with Federal Civil Procedure.

This continuance is then requested as a matter of judicial economy to allow for an streamline Order of judicial foreclosure of the subject mortgage within State of Alabama statutory judicial foreclosure as per the consent entered on behalf of the IRS.

Filed simultaneously herewith is the Pro Hac Vice application of the undersigned.

Respectfully Submitted



Gary S. Olshan PC by Gary S. Olshan
P O Box 3020
Birmingham, Alabama
(205) 313-2565

CERTIFICATE OF MAILING

The within Motion has been served upon the following parties by placing a copy of the Motion in the U. S. Mail postage prepaid addressed as below on this the 23rd day of October 2006.



Gary S. Olshan

Melissa Hagler
616 26th St A
Columbus, GA 31904-8531

David Stivaius
P O Box 1043
Fortson, GA 31808

Alan K. Fleming
6261 Seminary Rd
Columbus, GA 31904

Scarborough & Weldon LLC
Attn: Alisa J. Caldwell
P O Box 780452
Tallasse, AL 36078

United States Attorney
Attn: R. Randolph Neeley
P O Box 197
Montgomery, AL 36101-0197